

OPINION OF TRUSTEES

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In Re

Complainant: Employee  
Respondents: Employers A & B  
ROD Case No: 81-68, June 28, 1983

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee; Paul R. Dean, Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health and other non-pension benefits coverage for an Employee by the Employer under the terms of the Employer's Benefit Plan and hereby render their opinion on the matter.

Background Facts

The Employee worked for Employer A from September 1978 to December 19, 1980. During that period, Employer A was mining coal for Employer B under an agreement which provides that Employer B would be responsible for payments to the UMWA Health and Retirement Funds for coal royalties. In addition, Employer B provided benefits coverage to Employer A's Employees and Pensioners, through Employer B's Employer's Benefit Plan.

Employer B had reported 3,127 classified hours worked by the Employee during the 24-month period immediately prior to December 19, 1980, his date last worked. Nevertheless, Employer B canceled the Employee's health and other non-pension benefit coverage effective June 30, 1981, because Employer A was no longer producing coal for it. Employer A claims that its contract with Employer B provided that Employer B was to provide health and other non-pension benefit coverage for the Employees of Employer A. The contract, a copy of which is in the file, does not address benefit coverage.

Employer A signed the National Bituminous Coal Wage Agreement ("Wage agreement") of 1981. On January 14, 1982, Employer A submitted a "No Longer in Business Letter" to the Funds. The information contained in the letter indicated that Employer A had gone out of business on March 27, 1981. However, a Funds' audit of Employer A's records indicates that Employer A is Rot out of business within the meaning of Article II. E. 4 of the UMWA 1954 Benefit Plan and Trust, as amended in 1981.

The Employee was hired by another Employer on September 8, 1981, and worked for it through April 18, 1982.

During the period from July 1, 1981, to September 8, 1981, the Employer's spouse incurred obstetrical and maternity charges which exceed 52,000.

### Dispute

Which Employer was responsible for providing coverage to the Employee and his dependents from July 1, 1981, through September 8, 1981?

### Position of Parties

Position of Employee: He wants to know which Employer was responsible for providing him with health and other non-pension benefit coverage after June 30, 1981.

Position of Employer A: It had a contract with Employer B which provided the Employer A would provide benefit coverage for Employer A's Employee.

Position of Employer B: It was only required to provide benefit coverage Employer A's Employees during the periods when they were working on Employer B's property.

### Pertinent Provisions

Article III. E. 1 (a) of the Employer's Benefit Plan, as adopted in 1978, which provides:

#### E. General Provisions

##### 1. Continuation of Coverage

##### (a) Layoff

If an Employee ceases work because of layoff, continuation of health, vision care, life and accidental death and dismemberment insurance coverage is as follows:

Number of Hours Worked for the  
Employer in the 24 Calendar  
Month Period Prior to the Date  
Last Worked

Period of Coverage  
Continuation from the  
Date Last Worked

2,000 or more hours

Balance of month  
plus 12 months

500 or more but less than 2,000 hours	Balance of month plus 6 months
Less than 500 hours	30 days

Article III. E.(2) of the Employer's Benefit Plan, as adopted in 1978, which provides:

2. Advanced Insurance Premiums

In the event of an economic strike at the expiration of the 1978 Bituminous Coal Wage Agreement, the Employer will advance the premiums for its health, vision care, and life and accidental death and dismemberment insurance coverage for the first 30 days of such strike. Such advanced premiums shall be repaid to the Employer by such Employees through a check-off deduction upon their return to work. Should such a strike continue beyond 30 days, the Union or such Employees may elect to pay premiums themselves.

Article III. E.(f) of the Employer's Benefit Plan, as adopted in 1978, which provides:

(f) Other Employment

Notwithstanding the foregoing, an Employee's health, vision care, life and accidental death and dismemberment insurance coverage will terminate as of the date the Employee accepts other employment.

Article II. A.(2) of the Employer's Benefit Plan, as amended in 1981, which provides:

A. Active Employees

Benefits under Article III shall be provided to any Employee who:

(2) is on layoff or disabled from the Employer and had continuing eligibility as of the effective date of the Wage Agreement, for coverage under the 1978 Employer's Benefit Plan ("prior Plan") as a laid-off or disabled employee. Coverage for such laid-off or disabled Employees shall not continue beyond the date when they would no longer have been eligible for such coverage under the provisions of the prior Plan,

Article XX, Section (1)(b) of the National Bituminous Coal Wage Agreement of 1981 provides that working miners will be provided health benefits through their individual Employer's Benefit Plan. Employer A claims that Employer B is responsible for providing the Employee's benefits coverage, because Employer B had agreed to provide such coverage under its contract with Employer A. Although Employer B may have agreed to provide the Employee's insurance coverage while Employer A was mining coal for Employer B, this would not relieve Employer A, as the Employee's Employer, of its obligations to the Employee under its Employer's Benefit Plan.

Under Article II. E. of the 1978 Employer's Benefit Plan, a laid-off Employee who worked more than 2,000 hours for the Employer during the 24-calendar month period prior to the date he last worked is eligible for continuation of coverage for the balance of the month plus 12 months from his date last worked. However, the Employer is not responsible for providing coverage during an economic strike at the expiration of the 1978 Wage Agreement, and coverage terminates as of the date the Employee accepts other employment.

Under Article II. A. (2) of the 1981 Employer's Benefit Plan, coverage for Employees laid off during the terms of the 1978 Wage Agreement continues for the period during which the Employee was eligible for coverage under the 1978 Employer's Benefit Plan.

The Employee worked more than 2,000 hours for Employer A during the 24-calendar month period immediately prior to December 19, 1980, his last date worked. The economic strike following the expiration of the 1978 Wage Agreement extended from March 27 through June 6, 1981. And, the Employee accepted other employment on September 8, 1981. Therefore, under the terms of the 1978 and 1981 Employer's Benefit Plans, the Employee was eligible for continuation of coverage from December 20, 1980 through March 27, 1981 and from June 7, 1981 through September 8, 1981.

#### Opinion of the Trustees

The Trustees are of the opinion that Employer A is responsible for the provision of health and other non-pension benefit coverage for the Employee and his dependents during the period July 1, 1981 through September 8, 1981.